

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

Revised Effective September 17, 2004

**POLICY NO. DI-02-2004
(B,SB,SL,HC,CU)**

**[Rescinds Policy Nos.
B-02-89, B-03-92, SL-03-92,
SB-03-92, CU-01-92]**

ENFORCEMENT ACTIONS

- I. PURPOSE:** To define procedures for implementing enforcement actions and monitoring institutions operating under an enforcement action
- II. APPLICABILITY:** All Banks, Savings and Loan Associations, Savings Banks, Credit Unions, Independent Trust Companies, and OFI's Depository Examination and Administration Staff
- III. GENERAL:** If during the course of an examination or off-site monitoring review, an examiner discovers any adverse condition or significant event which negatively impacts the institution's financial condition or its ability to comply with an outstanding action, the examiner should report the situation to this office immediately.

A. IMPLEMENTATION PROCEDURES

Institutions requiring enforcement actions:

- 1. Generally, institutions with composite ratings of 1 or 2 will not be subject to an enforcement action. However, notwithstanding its composite rating, any institution may be subject to an enforcement action to correct significant deficiencies in specialty areas such as information technology, trust, compliance, bank secrecy, etc.
- 2. In the spirit of cooperation and to the extent possible, the appropriate federal counterpart should be given the opportunity to join in the enforcement action.

Unless otherwise documented and approved by the Commissioner, all institutions with composite ratings of 3, 4, or 5 will be subject to enforcement action. The action taken may be formal or informal but must provide a reasonable plan to correct and prevent unsafe and unsound practices and improve the overall condition of the institution.

- 3. Unless otherwise documented and approved by the Commissioner, the following action will be taken when an institution receives its first composite rating of 3.

- a. For banks, savings and loan associations, savings banks, and independent trust companies—The Board of Directors (BOD) will be asked to adopt a Board Resolution (BR) or required to enter into a Memorandum of Understanding (MOU) or Supervisory Agreement (SA) detailing action required to correct the noted deficiencies and improve the overall condition of the institution.
 - b. For credit unions—The BOD will be required to enter into a Letter of Understanding and Agreement (LUA) or asked to adopt a BR committing to correct the deficiencies detailed in the Document of Resolution section of the report.
4. When an institution receives more than one consecutive, composite rating of 3, the Commissioner may accept a BR in lieu of a MOU if the institution is in substantial compliance with an outstanding enforcement action, deficiencies have been materially corrected, or the institution's condition has improved and no longer warrants a more severe action at this time. Otherwise, the need for another enforcement action (informal or formal) will be considered.
5. Unless otherwise documented and approved by the Commissioner, an institution with a composite rating of 4 or 5 will be subject to a Cease and Desist Order (C&D) or a formal Section 39 compliance plan¹, and must submit a plan to the Commissioner detailing actions taken or planned to return the institution to a safe and sound condition within an acceptable period of time.
6. The Enforcement Action Waiver Form (attached) will be used to document exceptions to this policy. This form must be completed by the review examiner, approved by the Chief Examiner as well as the Commissioner or Deputy Commissioner, and maintained in the institution's file.

B. MONITORING PROCEDURES

1. GENERAL POLICY AND PROCEDURES—The primary objectives of the on-site monitoring program described below are as follows: (1) to inform the management of financial institutions as to the content of enforcement actions; (2) give this office a more complete understanding of the true condition of the institutions under enforcement actions, including their deficiencies and risks; and (3) enhance the dialogue with the management of these institutions.

¹ Pursuant to Section 39(e)(1) of the Federal Deposit Insurance Act and in compliance with Section 308.302 of the FDIC's Rules and Regulations

- a. When an institution is placed under any enforcement action², the Regional Office Manager (ROM) will be notified.
- b. The ROM will contact the institution within 30 days of the effective date of the action and set up an "implementation visit."
- c. The implementation visit must be conducted within 90 days of the effective date of the enforcement action. This visit should be conducted by a senior examiner to determine that management and the BOD thoroughly understand the provisions of the action.
- d. The examiner will prepare a memo to the Commissioner documenting this visitation. The memo must discuss management's willingness and commitment to comply with the enforcement action as well as any provision(s) needing additional clarification or correspondence.
- e. The results of this implementation visit will not be communicated to the institution's BOD unless it is necessary to clarify a provision of the enforcement action.

2. PROGRESS VISITATIONS

- a. The ROM will assign an Examiner-In-Charge (EIC) to conduct a progress visitation approximately six months after the implementation visit.
- b. The purpose of this visitation is to assess the current condition of the institution and to evaluate management's efforts to comply with the enforcement action.
- c. The EIC will review all necessary documentation in order to make an accurate assessment of the institution's condition and progress in complying with the enforcement action.
- d. A written report of the EIC's findings entitled "Progress Visitation" will be forwarded to the main office within two business days of the completion of the visit.
- e. The visitation report must include the "Examination Comments and Conclusion" page. This page must detail each provision of the enforcement action and management's progress in complying with each provision. In addition, a paragraph which summarizes each CAMELS factor that is not specifically addressed in the enforcement

² Enforcement actions shall include but not be limited to the following: Cease and Desist Order, Section 39 Compliance Plan, Memorandum of Understanding, Supervisory Agreement, Letter of Understanding and Agreement, Board Resolution, and Capital Plan

action should be included. The report will also include a “Confidential” page detailing any information deemed to be confidential by management or the EIC. Other pertinent information may be provided at the EIC’s discretion or as requested by the ROM or other level of supervisor to the examiner.

- f. A summary of the findings of the progress visitation will be communicated to the institution's BOD through a transmittal letter (TL). However, the report submitted to this office will **not** be processed and returned to the institution, and the institution will not be charged by this office for the visitation, unless otherwise directed by the CE, DC, or Commissioner.

3. SUBSEQUENT SAFETY AND SOUNDESS EXAMINATIONS

- a. Management’s efforts to comply with an outstanding enforcement action will be assessed at each safety and soundness examination. The findings of this review must be detailed on the Compliance with Enforcement Actions page of the report.
- b. For the first examination following the effective date of the enforcement action, the examiner will detail each provision of the action. At subsequent examinations, only continuing provisions or those noting new areas of noncompliance should be detailed in the report.
- c. The confidential section of each report should contain a recommendation to maintain, amend, or terminate the enforcement action. Comments made in response to the provisions of the action must support the EIC’s recommendation. The Commissioner’s decision regarding the action will be communicated to the BOD in the TL accompanying the report.

4. EXCEPTIONS—Any exception to this policy requires the prior written approval of the Commissioner.

John Ducrest
Commissioner of Financial Institutions

Date

DPM/KLM/SES

ENFORCEMENT ACTION WAIVER FORM

Institution Information:

Name: _____ Cert. No. _____

City: _____

Latest Examination Information:

Date: _____ CAMELS Rating: _____

Examiner-in-Charge: _____

Review Examiner: _____

Reason(s) for Waiving Enforcement Action:

Conditions to waiver:

Discussions w/ EIC and federal counterparts:

Review Examiner's Recommendation: _____

Chief Examiner's Recommendation: _____

Commissioner's Action: _____

Additional Comments:
